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JAN 26 2005

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Daniel R. Marshall :
Application No. 09/759,867 :
Filed: January 12, 2001 :
Attorney Docket No. 10002307-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 19, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The reply submitted on June 14, 2004 did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed November 17, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed, and no extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 20, 2004.

The above-identified application is being revived solely for purposes of continuity with a submission under 37 CFR 1.114 (request for continued examination (RCE)).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Pursuant to petitioner's authorization, Deposit Account No. 08-2025 was charged a total of \$2,290.00 -- \$1,500.00 for the petition to revive an unintentionally abandoned application and \$790.00 for the RCE fee.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center 2182 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.


Wan Laymon

Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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